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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixth session

SUMMARY RECORD OF THE 19th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 6 December 1991, at 3 p.m.

Chairman: Mr. ALSTON

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The meeting was called to order at 3.10 p.m.

ORGANIZATION OF WORK (agenda item 4) (continued)

1. The CHAIRMAN invited members to consider the scheduling of outstanding reports from States parties for the seventh session. He drew attention to an information note which had been circulated, listing the States parties from which reports had been received by the Secretary-General as at 6 December 1991, and suggested that the Committee might wish to schedule the reports of the first nine countries on the list, namely Belarus, the Czech and Slovak Federal Republic, Norway, USSR, Nicaragua, Poland, Hungary, New Zealand and Italy, i.e., the same number of reports as at the current session. Of the nine reports, seven were periodic reports and two, those of New Zealand and Italy, were comprehensive and in fact very voluminous reports. Alternatively, the Committee might wish to add a few more reports to its schedule as a precautionary measure against possible last-minute withdrawals, although it must be borne in mind that there would be a number of sets of additional information to be considered as well.

2. Mr. NENEMAN said that it would be preferable to restrict the number of reports to nine in view of the length of the Italian and New Zealand reports. There had been talk of requesting a longer session, in which case further reports could be added.

3. The CHAIRMAN said that the question of a longer session the following year would be discussed later in the current session.

4. If there was no objection, he would take it that in principle the Committee agreed to schedule the nine reports to which he had referred for the seventh session.

5. It was so decided.

6. The CHAIRMAN drew attention to the tentative list of issues to be taken into account in formulating concluding observations which had now been circulated in document E/C.12/1991/CRP.3, and invited members' comments.

7. Mr. MRATCHKOV said he agreed with the principle of adopting a uniform approach to the formulation of concluding observations, but had two amendments to make to the Chairman's draft. The first was to insert the words "the degree of practical application and" in the third paragraph, after the word "identify", since the effective application of rights was a matter of constant concern to the Committee. The second amendment concerned paragraph 5 (a), which would now read "(a) the Committee requires more information, perhaps in the form of a supplementary written submission or in the next report,".

8. Mr. WIMER ZAMBRANO said that, in consultation with other Spanish-speaking members, he had prepared an alternative draft, which bore some similarities to the text proposed by the Chairman but was more succinct and also more

categorical in tone. In his view, it would be preferable for his draft to be translated into the other working languages so that the two texts could be discussed thoroughly and possibly merged.

9. Mr. SPARSIS, Mr. KOUZNETSOV and Mr. FOFANA said they were in favour of having the alternative text translated.

10. The CHAIRMAN said, if there was no objection, he would take it that the Committee wished the text proposed by Mr. Wimer Zambrano to be translated and submitted to the Committee for further discussion.

11. It was so decided.

CONSIDERATION OF REPORTS (agenda item 7)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Additional information submitted by States parties to the Covenant following the consideration of their reports by the Committee

Colombia (E/1989/5/Add.3; E/C.12/WG/1991/CRP.14)

12. The CHAIRMAN drew members' attention to the recommendations by the pre-sessional working group regarding the additional information submitted by the Government of Colombia (E/1989/5/Add.3), contained in document E/C.12/WG/1991/CRP.14, in which the pre-sessional working group proposed inviting the State party to address two outstanding issues in its next periodic report. He said that, if there was no objection, he would take it that members of the Committee favoured adopting the approach proposed by the pre-sessional working group in that document.

13. It was so decided.

Dominican Republic (E/1990/5/Add.4)

14. Mr. SIMMA reminded members that, during its scrutiny of the report by the Dominican Republic at the previous year's session, the Committee had been greatly concerned at the problem of large-scale evictions in that country. That concern had found expression in paragraphs 249 and 250 of the Committee's report on its fifth session (E/1991/23), in which it had requested the Government to submit an additional report on those issues.

15. He pointed out that no additional information had since been received from the Dominican Government, but that the Committee had in the meantime received additional information from other sources, including, inter alia, that contained in document E/C.12/1991/NGO/1. According to information contained therein, the Committee's concluding observations at its previous session had been the subject of great attention in the Dominican press. For approximately six months thereafter, no further large-scale evictions had taken place. However, evictions were now resuming, and, on the basis of Presidential Decree No. 358/91 of September 1991, up to 12,000 families living

in the areas of La Ciénaga and Los Guandules were threatened with forced eviction. Under the terms of article 4 of that decree, the families residing in those areas who "qualified" by virtue of their "education, living habits and social level" would be moved to modern housing built by the State in Ciudad del Amirante, while "the rest" of the inhabitants - namely, he supposed, those who did not qualify by virtue of their education, living habits and social level - were to be moved to other areas. The areas from which the 12,000 families were to be evicted would henceforth be placed under the control of the navy, and would be used for the construction of berths for small craft, yachting clubs, tourist areas, recreational parks and green areas. So far, about 200 families had been affected by the evictions and about 40 children were alleged to have died as a result of inadequate access to medical treatment.

16. It seemed to him that the Committee was now under a moral and procedural obligation officially to request the Government of the Dominican Republic, as a matter of urgency, first, to submit the additional information requested, and secondly, to put an immediate end to those evictions. That request should quote, or preferably, paraphrase in plain terms, the statements and requests contained in paragraphs 249 and 250 of the Committee's report on its fifth session.

17. The CHAIRMAN read out the following draft note for transmittal to the Government of the Dominican Republic:

> "The Committee on Economic, Social and Cultural Rights draws the attention of the Government of the Dominican Republic to the concluding observations which it adopted at its sixth session which included the following statement:
>
> '... The information that had reached members of the Committee concerning the massive expulsion of nearly 15,000 families in the course of the last five years, the deplorable conditions in which the families had had to live, and the conditions in which the expulsions had taken place were deemed sufficiently serious for it to be considered that the guarantees in article 11 of the Covenant had not been respected.
>
> The Committee consequently requested an additional report on those issues which called for more detailed development as well as answers to those questions which had been kept pending.'
>
> The Committee notes that its request for an additional report on those issues has not yet evoked a response from the Government. It notes that, in the meantime, it has received additional information from several sources, including that contained in E/C.12/1991/NGO/1, which, if accurate, would give rise to serious concern on the part of the Committee. The Committee thus requests the State party to suspend any actions which are not clearly in conformity with the provisions of the Covenant and requests the Government to provide additional information to it as soon as possible."

18. Mr. SPARSIS suggested that the phrase "as soon as possible" should be replaced by "as a matter of urgency".

19. The note to the Government of the Dominican Republic, as amended, was adopted.

Netherlands (E/1989/5/Add.1; E/C.12/WG/1991/CRP.13)

20. Mr. SIMMA asked for confirmation that a note based on the recommendations of the pre-sessional working group would reach the State party concerned before the subject was dealt with by the Committee in plenary at its next session.

21. The CHAIRMAN said that such was the case.

22. Mr. SIMMA drew attention to the fact that the statement in paragraph 1 (c) of the proposed note to the Government of the Netherlands (E/C.12/WG/1991/CRP.13) was clearly inaccurate, in view of the small population of the Netherlands. There might be at most 50,000 people homeless in that country. The figure of 1.5 million on a housing list referred to persons seeking better accommodation. The word "homeless" should therefore be deleted from that subparagraph, and the first part should be amended to read: "the existence of a waiting list for housing containing the names of 1.5 million people; ..."

The note to the Government of the Netherlands (E/C.12/WG/1991/CRP.13), as amended, was adopted.

France (E/1989/5/Add.1; E/C.12/WG/1991/CRP.12)

23. Mr. SIMMA recalled that one of the problems which the Committee had had in considering the initial report of France on articles 10 to 12 of the Covenant (E/1986/3/Add.10) had been that the payment of allowances to disabled persons had been restricted to French nationals, nationals of countries which had special treaties with France in respect of social benefits and nationals of the European Economic Community. The Government's response contained in document E/1989/5/Add.1, paragraph 15, had been taken up by the pre-sessional working group in paragraph 3 (c) of its draft note to the Government (E/C.12/WG/1991/CRP.12). He had every sympathy with the Working Group's suggestion that France might consider withdrawing its declaration with respect to articles 6, 9, 11 and 13 of the Covenant, since any declaration limiting the obligations assumed by a State party had a negative effect on human rights. However, he felt that the legal argument put forward by the Working Group in the second sentence of paragraph 3 (c) did not fit the case. He considered that there was a difference between the possibility for a State party to make a reservation and the possibility for a State party to enact a limit in accordance with article 4 of the Covenant, which had nothing to do with reservations. He therefore proposed that the Committee should retain the suggestion that the Government of France might withdraw its declaration but that it should delete the supporting legal argument.

24. Mr. MRATCHOV agreed with Mr. Simma's reasoning and supported his proposal. The first sentence of the subparagraph would suffice to start a discussion by inviting the Government to consider whether withdrawal of its reservation would not be more completely in conformity with the requirements of the Covenant. The second sentence should be deleted.

25. The note to the Government of France (E/C.12/WG/1991/CRP.12), as amended, was adopted.

GENERAL DISCUSSION ON THE TOPIC OF SOCIAL AND ECONOMIC INDICATORS (agenda item 8)

26. The CHAIRMAN drew attention to the documents which had been circulated on human rights indicators. He referred in particular to the report of the Secretary-General on the work being done within the United Nations system on improving quantitative and qualitative indicators on social conditions and standards of living (A/46/137) and to the reports and working paper which Mr. Danilo Türk had prepared for the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1990/19, E/CN.4/Sub.2/1991/70 and E/CN.4/Sub.2/1991/WP.3).

The meeting rose at 4.40 p.m.